

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

**CONTINENTAL MACHINERY
COMPANY, INC.,**

Plaintiff,

v.

**SCOTT H. KORN d/b/a BENGAL
PAPER AND CONVERTING,**

Defendant.

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Civil Action No. **3:19-CV-769-L**

ORDER

On January 16, 2020, the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 17) was entered, recommending that the court deny Defendant’s Rule 12 Motions (Doc. 6) for lack of personal jurisdiction and insufficient service of process; grant Plaintiff’s Motion to Remand based on a binding forum selection clause that provides “[v]enue will be Dallas County Courthouse, Dallas, Texas” (Doc. 10), Report 12 (citation omitted); deny as moot Defendant’s Rule 12 Motions (Doc. 6) to the extent Defendant requests a transfer of venue to Pennsylvania; and abstain from ruling on Defendant’s Rule 12 Motions (Doc. 6) to the extent Defendant moves for dismissal for failure to state a claim. On January 31, 2020, Defendant filed objections to the Report. Specifically, Defendant objects to the magistrate judge’s findings and recommendation that:

(1) Defendant’s motion to dismiss for lack of personal jurisdiction be denied, and (2) Plaintiff’s motion to remand this matter to state court be granted. Defendant further objects to the Magistrate Judge’s denial of Defendant’s motion to transfer venue, which follows from the Magistrate Judge’s recommendation that this matter be remanded to state court.


Def.’s Obj. 1.

Having considered the motions, record, and Report, and having conducted a de novo review of that portion of the Report to which objection was made, the court concludes that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court:

- (1) **overrules** Defendant's objections;
- (2) **denies** Defendant's Rule 12 Motions (Doc. 6) based on lack of personal jurisdiction and insufficient service of process;
- (3) **grants** Plaintiff's Motion to Remand based on a forum selection clause (Doc. 10);
- (4) **denies as moot** Defendant's Rule 12 Motions (Doc. 6) to the extent Defendant requests a transfer of venue to Pennsylvania; and
- (5) **abstains** from ruling on Defendant's Rule 12 Motions (Doc. 6) to the extent Defendant moves for dismissal for failure to state a claim or any other ground not addressed in this order.

In accordance with these rulings, the court **remands** this action to 162nd Judicial District Court, Dallas County, Texas, from which it was removed. The clerk of the court **shall** effect the remand in accordance with the usual procedure and **term** all pending motions.

It is so ordered this 31st day of January, 2020.


Sam A. Lindsay
United States District Judge